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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936

No. 418

HAROLD H. HENNEFORD, THOMAS S. HEDGES AND T. M. JENNER, MEMBERS OF THE TAX COMMISSION OF THE STATE OF WASHINGTON,

Appellants,

VS.

SILAS MASON COMPANY, INC., WALSH CONSTRUCTION COMPANY, GUY F. ATKINSON, GEORGE H. ATKINSON, WILLIAM E. KIER, AND ELMER L. KIER, COPARTNERS AS ATKINSON-KIER COMPANY, AND MASON-WALSH-ATKINSON-KIER COMPANY,

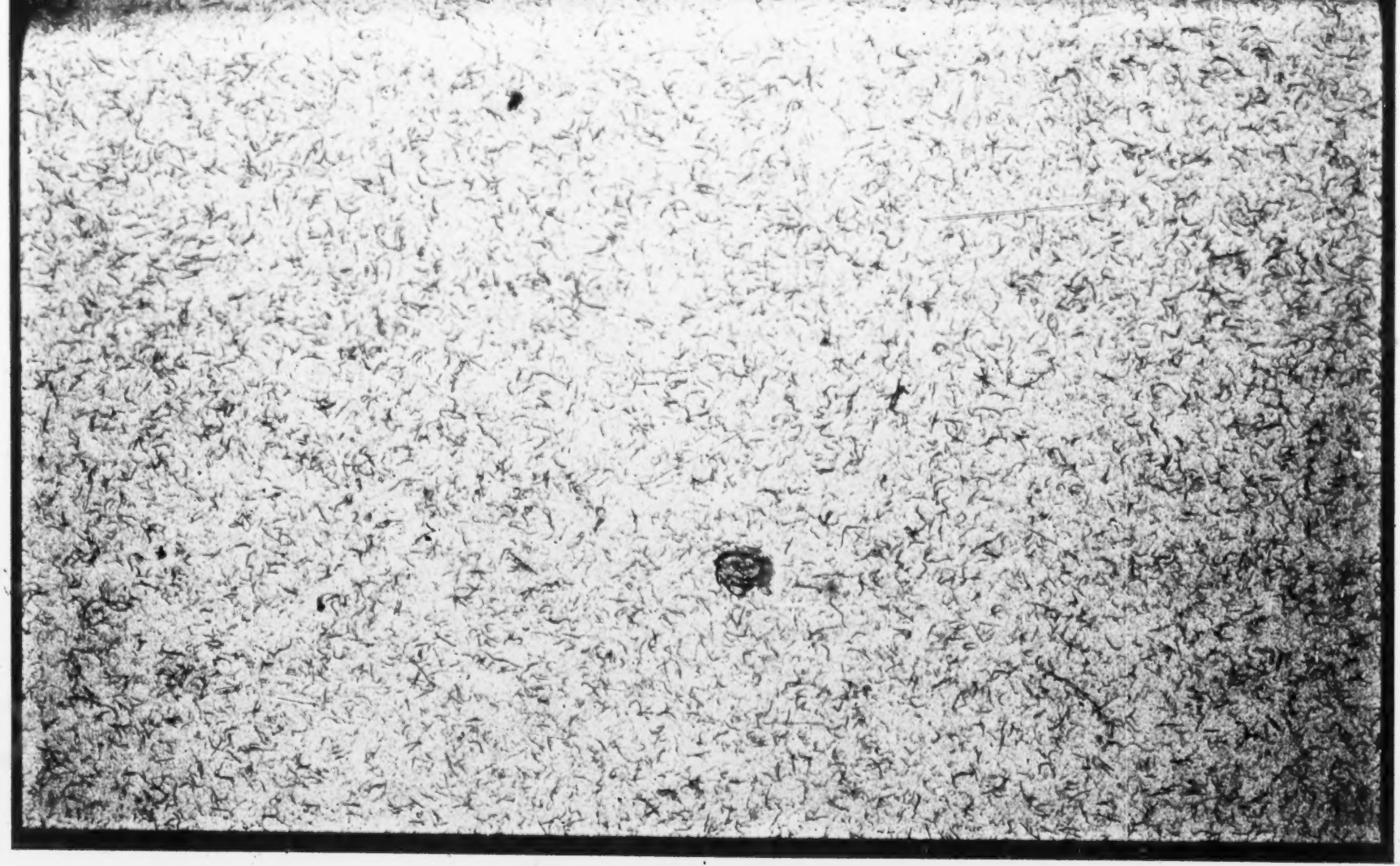
Appellees.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION.

APPELLANTS' MOTION TO ADVANCE CASE ON CALENDAR

G. W. HAMILTON AND R. G. SHARPE,
Attorneys for Appellants,
Office and Postoffice Address: Temple of Justice, Olympia, Wash.

GRAVES, KIZER AND GRAVES,
Attorneys for Appellees,
W. G. GRAVES AND B. H. KIZER,
Solicitors for Appellees.
Postoffice Address: Old National Bank Bldg., Spokane, Wash.



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Come now the appellants and move the Court for an order advancing the date of argument of the above appeal to the first available date after the record therein will have been printed and in the hands of both parties for a period of twenty-five days.

This motion is based upon the files and records in the appeal and upon the affidavit and stipulation hereto attached.

G. W. HAMILTON,
Attorney General of the State of Washington,

R. G. SHARPE,
Assistant Attorney General of the State of Washington,

Attorneys for Appellants.

SUPPORTING AFFIDAVIT

STATE OF WASHINGTON,
County of Thurston, } ss.

R. G. SHARPE, being first duly sworn, on oath, deposes and says: That affiant is one of the assistants of the Attorney General of the State of Washington, and as such is now, and at all times since its inception has been, one of the attorneys for appellants in the above appeal. That the decision of this Court on said appeal will be determinative of the validity of Title IV, Chapter 180, Sections 31 to 35, Laws of Washington of 1935, which imposes upon every person in the State of Washington a tax or excise for the privilege of using within said state any article of tangible personal property purchased at retail subsequent to April 30, 1935, equal to 2% of the purchase price thereof plus cost of transportation to place of use, with an off-set of any use or sales tax paid thereon either in the State of Washington or in any other state. That said revenue act was sustained by the supreme court of the State of Washington in the case of *Vancouver Oil Co. v. Henneford*, 183 Wash. 317, as not violative of any provision of either the state or federal constitutions, and the tax imposed thereby has been in general collected since said decision, but that the decision of the divided three-judge court in the present case has cast a doubt upon the validity of said revenue measure to the extent that the collection of such tax is becoming increasingly difficult. That the State of Washington depends in large measure for the support of its public schools, its state emergency relief, and its other state expenses upon the revenue realized from said tax

measure and the companion tax measure, the 2% retail sales tax imposed by Title III of said Chapter 180, Laws of 1935. That the legislature of the State of Washington will meet in regular session on January 11th, 1937, to remain in session not to exceed sixty days thereafter, and in order that said legislature may make proper provision for the expenses of state government, it is a matter of great importance that the question of the validity of the tax involved in the present appeal be, if possible, determined by this court before the adjournment of said state legislature.

That the transcript of the record in said appeal is now on file with the clerk of this court, and the portions of the record to be printed have been duly designated by both parties thereto.

R. G. SHARPE

Subscribed and sworn to before me this 14th day of October, 1936.

JENNIE M. TATTERSALL
Notary Public in and for the State of Washington, residing at Olympia.

(Notarial Seal)

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties to the above entitled appeal that the date of argument of such appeal may be advanced to the first available date after the record in such appeal will have been printed and in the hands of both parties thereto for a period of twenty-five days.

Dated this 15th day of October, 1936.

G. W. HAMILTON AND R. G. SHARPE,
Attorneys for Appellants,

GRAVES, KIZER AND GRAVES,
Attorneys for Appellees,

W. G. GRAVES AND B. H. KIZER,
Solicitors for Appellees.

Due and timely service of the within motion by receipt of a true copy thereof, acknowledged this 15th day of October, 1936.

GRAVES, KIZER AND GRAVES,
Attorneys for Appellees,

W. G. GRAVES AND B. H. KIZER,
Solicitors for Appellees.